GOVERNMENT OF INDIA
HEAVY INDUSTRIES AND PUBLIC ENTERPRISES
LOK SABHA

UNSTARRED QUESTION NO:2439
ANSWERED ON:18.12.2003
SYSTEM OF ARBITRATION
BHAWANA GAWALI (PATIL)

Will the Minister of HEAVY INDUSTRIES AND PUBLIC ENTERPRISES be pleased to state:

(a) whether any permanent system of arbitration has been set up in the Department of Public Enterprises for the purpose of resolving all commercial disputes, arising between two public sector enterprises or between a public sector enterprise and any Government department; and

(b) if so, the details along with its composition and functioning thereof?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF HEAVY INDUSTRIES & PUBLIC ENTERPRISES (SHRI SANTOSH GANGWAR)

(a) & (b): A Permanent Machinery of Arbitrators(PMA) was set up in the erstwhile Bureau of Public Enterprises(now Department of Public Enterprises), in 1989 to settle commercial disputes (excluding disputes on income-tax, customs and excise)between public sector enterprises(PSEs) inter se and between a public sector enterprise and a Government department. All the administrative Ministries/Departments concerned with PSEs were advised vide DPE`sd.o. letter No. 15(9)/86-BPE(Fin) dated 29th March, 1989 to issue necessary Presidential directives to the PSEs under their administrative control so as to incorporate an Arbitration Clause to this effect in all their current and future contracts. Subsequently, Port Trusts were also brought under the purview of PMA in July, 1993. However, disputes with Railways were taken out from the PMA in February, 1997.

A Joint Secretary level officer from the Ministry of Law, nominated by the Law Secretary and appointed by the Secretary, DPE in each case, functions as Arbitrator in the PMA.

Commercial disputes are referred to the Arbitrator by DPE. The Arbitrator, after giving due hearing to the parties, publishes his award. Any party aggrieved by such award may prefer appeal before the Law Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India whose decision shall be binding upon the parties.